

p5-03

**From:** "Gary Ryan" <gary@airportbrokers.com>  
**To:** <Secretary@fmc.gov>  
**Date:** 8/29/03 1:37PM  
**Subject:** Response to Petitions P5-03 & P3-03

Gentlemen.

Attached please note a letter of response to Petitions P5-03 and P3-03 outlining the views of our firm.

If you have problems in opening the attachments please let me know

Best regards,

AIRPORT BROKERS CORPORATION

Gary A. Ryan

President

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**CC:** "Edward D. Greenberg" <egreenbe@gkgLaw.com>, "Kim" <staff@ncbfaa.org>



August 29, 2003

Secretary  
Federal Maritime Commission  
800 North Capitol Street, N.W.  
Washington DC 20573-0001

Re: **Petition No. P5-03 & Petition No. P3-03**

Gentlemen:

This letter is in regard to the filing of the two petitions referenced above, Petition No. P5-03, filed by the National Customs Brokers and Forwarders Association of America, Inc. and petition No. P3-03 filed by United Parcel Service, Inc.

Airport Brokers Corporation is an Ocean Transportation Intermediary. We are not a Non-Vessel Operating Common Carrier (NVOCC).

### **History**

The Federal Maritime Commission used to require that all ocean carriers file rates with the Federal Maritime Commission. The rates were filed for the information of the general and shipping public. They were open to examination and review by everyone. Shippers, both large and small, were allowed to take advantage of the same rates to ship the same commodity from the same port to the same destination. The intent was to have a "level playing field" for shippers, no matter what their size.

Over the last number of years the laws and regulations were changed. Ocean carriers were allowed to enter into "special rates" by means of time/volume contracts that were confidential and hidden from public view. Non-Vessel Operating Common Carriers (NVOCCs) were allowed to discontinue filing their rates with the Federal Maritime Commission and were required to file their rates on the Internet.

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Federal Maritime OTI License No. 2497

**Current Practical Applications:**

When cargo is booked directly with the steamship line, or when rates are being negotiated, Shipper A can not find out what Shipper B is being charged by the steamship line because the rates being charged by the steamship line are probably hidden under the veil of a confidential time/volume contract.

If the shipper uses an NVOCC to transport goods, the shipper can not find out what the NVOCC's tariff says because the tariff is, for all practical matters, inaccessible. Even finding where an NVOCC's tariff and rates are on the Internet is next to impossible. (Put an NVOCC's name into an Internet Search Engine and you will be extremely lucky to even find where the rates are filed.) When, and if, you do find the rates, the charge for reviewing them is so larger that seldom, if ever, will the shipper pay to see what they say. The shipper can not view the tariff to see if the rates on the bill of lading are correct or not.

In addition, the Federal Maritime Commission does not have the time or the resources to police carrier's tariffs. Congress has not increased the funding of the Federal Maritime Commission to keep up with the increase in the number of shipments arriving and departing from the United States. For example, we filed an Informal Complaint with the Federal Maritime Commission about two years ago involving an overcharge of about \$2,500 and we are still waiting for a resolution by the Federal Maritime Commission.

Congress, and the budget, is more concerned over port security and supply chain logistics than about ocean tariffs and rates being applied; thus, there is little likelihood for additional Federal Maritime Commission funding.

**Other Considerations:**

Almost all modes of international and domestic transportation in the United States have been deregulated. Ocean transportation is about the last remaining holdout. Deregulations of the other modes of transportation have resulted into saving by the shippers, the consignees and the general public. Airfreight and truck rates have never been lower. The airfreight and trucking industries have survived.

Allowing one NVOCC, United Parcel Service, Inc., or even a selected few NVOCCs, to enter into confidential time/volume contracts would discriminate and start "classes" of NVOCCs.

**Conclusions:**

**We believe that all NVOCCs should be allowed to enter into confidential time/volume contracts and that the requirement for tariff filing should be abandoned. Shippers and consignees should be allowed to negotiate the best rates they can with any, and all, NVOCCs and direct carriers. Because of this, we respectfully request the Federal Maritime Commission to grant both of these petitions.**

Very truly yours,  
AIRPORT BROKERS CORPORATION

Gary A. Ryan  
President